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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,920	06/06/2006	Masayoshi Son	SB-1004-US	7869
63/008	7/5/0	12/11/2008		
MAIER & MAIER, PLLC 1000 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER NGUYEN, PHUNG HOANG JOSEPH	
			ART UNIT	PAPER NUMBER
			2614	
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			12/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,920

Applicant(s)

SON, MASAYOSHI

Examiner

PHUNG-HOANG J. NGUYEN

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy et al (US Pat 6,282,192) in view of Crawley et al (US Pat 5,953,312).**

As to claims 1 and 6, Murphy teaches, via fig. 2, a system and a communication path setting method of setting a communication path between a first telephone terminal system (*telephone terminal 14B of fig. 2*) connected to a packet network (*VOIP Network 20 of fig. 2*) and a second telephone terminal system (*telephone terminal 14A of fig. 2*) connected to a circuit switching network (*PSTN 18 of fig. 2*) and said circuit switching network, wherein said packet network and said circuit switching network are connected through a gateway device (*gateway 12 and gateway 22 of fig. 1*) which performs predetermined signal conversion (*gateway 12 and 22, by protocol, perform the conversion/translation*), said second telephone terminal system being provided with a first port connected to said packet network (*a VoIP interface 25 includes a voice encoder 26, a packetizer 27, and a transmitter 28. The voice encoder 26 implements the compression half of a coded. Packetizer 27 accepts compressed audio data from encoder 26 and formats the data into VoIP packets for transmission over the VoIP*

network 20. Transmitter 28 places the VoIP packets from packetizer 27 onto VoIP network 20, col. 3, lines 47-55) and a second port connected to said circuit switching network (a telephony interface 21 includes multiple PSTN DS0 interfaces 22 and/or multiple ISDN interfaces 23. Each PSTN DS0 interface 22 receives and transmits calls over DS0 channels and each ISDN interface 23 receives and transmits Integrated Services Digital Network (ISDN) calls, col. 3, lines 43-47), said communication path setting method comprising:

a step (A) in which said first control device connecting said second telephone terminal system from said first telephone terminal system (cross connect 24 makes connection, fig. 3);

a step (B) in which said first control device (either gateway 12 or gateway 22 of fig. 1) connecting (see fig. 3) to said second control device (either gateway 12 or gateway 22 of fig. 1) through said packet network;

Murphy does not explicitly teach (being highlighted BOLD for clarity):

*a step (A) in which said first control device **receives a connection request** for connecting said second telephone terminal system from said first telephone terminal system.*

*a step (B) in which said first control device (either gateway 12 or gateway 22 of fig. 1) **transmits said connection request** to said second control device through said packet network;*

a step (C) in which said second control device (*either gateway 12 or gateway 22 of fig. 1*) determines **whether or not said first port is operating in response to said connection request**; and

a step (D) in which, when it is determined in said step (C) that **said first port is not operating**, said second control device sets said communication path through said packet network, said circuit switching network and said second port by the use of said gateway device.

Crawley teaches in general a system that is implemented in response to inadequate resources to a normal next hop node for a requested connection. The system may also be implemented if the normal next hop node is not capable of supporting the requested data flow. An alternate next hop node is identified having adequate resources for the requested connection. The connection request is then sent to the alternate next hop node (*see Abstract*):

Crawley in a more specific manner teaches:

a step (A) in which said first control device **receives a connection request** (*fig.3, block 40*) for connecting said second telephone terminal system (*destination node 12 of fig. 1*) from said first telephone terminal system (*source node 10 of fig. 1*).

a step (B) in which said first control device **transmits said connection request** (*col. 5, lines 54-55*) to said second control device through said packet network;

a step (C) in which said second control device (*either gateway 12 or gateway 22 of fig. 1*) determines **whether or not said first port is operating in response to said**

connection request (*fig. 3 shows either YES or NO whether the node (or port) is operating or not in step 44*);

a step (D) in which, when it is determined in said step (C) that **said first port is not operating** (*a NO indicates that the node is not available due to the lack of resources and capabilities*) said second control device sets said communication path through said packet network, said circuit switching network and said second port by the use of said gateway device (*Examiner's note: here the inventive concept is at work when the current node or port or gateway is not operating, find a different route to the destination*). over IP (VoIP) link is established over a packet switched

Crawley's purpose is to ensure the system executes the highest level of quality of service (QOS). This teaching is very much similar to Murphy's teaching on QOS as Murphy presents a call fallback scheme in a packet switched network. After receiving incoming calls, a Voice network with a destination endpoint. VoIP packets are generated from the incoming calls and sent over the VoIP link to the destination endpoint. When a low quality of service condition is detected on the VoIP link with the destination endpoint, a fallback call is established with the destination endpoint over a circuit switched network. The VoIP packets for the incoming calls are redirected from the VoIP link to the circuit switched data link (see abstract).

Therefore it would have been obvious to the ordinary skilled artisan at the time of the invention was made to incorporate the teaching of Crawley into the teaching of Murphy to ascertain that if there is any condition, e.g., overload, lack of bandwidth and resource, defective issue, that incapacitates the calling or transmission process, system

must be able to find a different route or network or node to seamlessly maintain the communication.

As to claims 5 and 10-16, Murphy, in view of Crawley, teaches a system and a communication path setting method comprising a step of notifying to said first telephone terminal system whether said packet network alone or both said packet network and said circuit switching network is used as a route through which said communication path is set (*Fig. 4A describes the seamless PSTN fallback, without an interruption, col. 4, lines 45-46. Examiner's note: this indicates the communication path is well set*).

INQUIRY

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUNG-HOANG J. NGUYEN whose telephone number is (571)270-1949. The examiner can normally be reached on Monday to Thursday, 8:30AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571 272 7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CURTIS KUNTZ/
Supervisory Patent Examiner, Art Unit 2614

/Phung-Hoang J Nguyen/
Examiner, Art Unit 2614